

privilege enjoyed by others receiving any service, financial aid, or other benefit provided, in whole or in part, because of any Federal authorization to which this part applies;

(v) Treat an individual differently from others in determining whether he satisfies any admission, enrollment, eligibility, membership or other requirement or condition which individuals must meet in order to be provided any service, financial aid, or other benefit offered, in whole or in part, because of any Federal authorization to which this part applies;

(vi) Deny an individual an opportunity to participate in any activity made possible, in whole or in part, because of any Federal authorization to which this part applies, through the provision of services or otherwise, or afford him an opportunity to do so which is different from that afforded others;

(vii) Deny an individual the opportunity to participate as a member of a planning or advisory body participating in the provision of any service, financial aid, or other benefit which is integrally associated with any Federal authorization to which this part applies;

(4) *Determining and administering services, financial aids and other benefits.* In determining the types of services, financial aids or other benefits, or facilities which will be provided because of any Federal authorization to which this part applies, or the class of individuals or establishments to whom, or the situations in which, such services, financial aids, other benefits or facilities will be provided, or the class of individuals or establishments to be afforded an opportunity to participate in any activity made possible, in whole or in part, because of any Federal authorization to which this part applies, a recipient, contractor, or subcontractor to which this part applies, may not, directly or through contractual or other arrangements, utilize criteria or methods of administration which have the effect of subjecting individuals or establishments to discrimination because of their race, creed, color, national origin, or sex.

(5) *Site or location of facilities.* In determining the site or location of facilities,

for the provision of services, financial aids, or other benefits, a recipient, contractor or subcontractor to which this part applies, may not make selections with the purpose or effect of excluding individuals or establishments from, denying them the benefits of, or subjecting them to discrimination on the grounds of race, creed, color, national origin, or sex, or with the purpose or effect of defeating or substantially impairing the accomplishment of the objectives of section 403 of Public Law 93-153 and implementing rules, regulations, and orders.

(6) *References to services, financial aids or other benefits.* References to services, financial aids or other benefits shall be deemed to include all services, financial aids, or other benefits provided in or through facilities, programs, or operations made possible, in whole or in part, because of any Federal authorizations to which this part applies.

(7) *Scope of prohibited discrimination.* The enumeration of specific forms of prohibited discrimination in this paragraph (b) does not limit the generality of the prohibitions in paragraph (a) of this section.

#### § 27.4 Assurances.

Every application for a permit, right-of-way, public land order, or other Federal authorization to which this part applies, filed after the effective date of these regulations, and every contract covered hereunder to provide goods, services or facilities in the amount of \$10,000 or more to the recipient of any Federal authorization to which this part applies, must contain an assurance that the recipient, contractor, or subcontractor does not and will not maintain any facilities in a segregated manner, and that all requirements imposed by or pursuant to section 403 of Public Law 93-153 shall be met, and that it will require a similar assurance in every subcontract over \$10,000. The assurances shall be in a form specified by the Department Compliance Officer.

#### § 27.5 Equal opportunity terms.

Each permit, right-of-way, public land order, or other Federal authorization to which this part applies, shall include by reference or incorporation

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by operation of law the terms, conditions, obligations, and responsibilities of this section, as follows:

(a) The recipient hereby agrees that it will not, directly or through contractual or other arrangements, on the grounds of race, creed, color, national origin, or sex, discriminate against any individual or establishment in offering or providing contracts, employment, services, financial aids, or other benefits. Recipient will take affirmative action to utilize minority business enterprises in the performance of contracts awarded by recipient, to assure that applicants for employment are employed and that employees are treated during employment, and that individuals are offered and provided services, financial aids, and other benefits without regard to their race, creed, color, national origin, or sex. Recipient agrees to post in conspicuous places available to contractors, employees, and other interested individuals, notices which set forth these equal opportunity terms and to notify interested individuals, such as bidders, purchasers, and labor unions or representatives of workers with whom it has collective bargaining agreements of recipient's obligations under section 403 of Public Law 93-153.

(b) The recipient will comply with all rules, regulations, and orders of the Department of the Interior which implement section 403 of Public Law 93-153.

(c) The recipient will furnish all information and reports required by or pursuant to rules, regulations, and orders implementing section 403 of Public Law 93-153 and permit access to its books, records, and accounts by the Secretary of the Interior, the Department Compliance Officer, or other designee of the Secretary, for purposes of investigation to ascertain compliance with rules, regulations, and orders of the Department of the Interior which implement section 403 of Public Law 93-153.

(d) The recipient recognizes and agrees that its obligation for compliance with section 403 of Public Law 93-153 and implementing rules, regulations, and orders extends not only to direct activities, but also to require that contractors, subcontractors, sup-

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pliers, and lessees, comply with section 403 and implementing rules, regulations and orders. To that end the recipient agrees that with regard to all contracts over \$10,000 and all contracts of indefinite quantity (unless there is reason to believe that the amount to be ordered in any year under the contract will not exceed \$10,000) to:

(1) Obtain as part of its contractual arrangements with such parties, as a minimum form of assurance an agreement in writing, that:

(i) The contractor hereby agrees that it will not, directly or through contractual or other arrangements, on the grounds of race, creed, color, national origin, or sex, discriminate against any individual or establishment in offering or providing contracts, employment, services, financial aids, or other benefits. Contractor will take affirmative action to utilize minority business enterprises in the performance of subcontracts which is awards, and to assure that applicants are employed and that employees are treated during employment, and that individuals are offered and provided services, financial aids, and other benefits without regard to their race, creed, color, national origin, or sex. Contractor agrees to post in conspicuous places available to contractors, employees, and other interested individuals notices which set forth these equal opportunity terms and to notify interested individuals, such as bidders, purchasers, and labor unions or representatives of workers with whom it has collective bargaining agreements of contractor's obligations under section 403 of Public Law 93-153.

(ii) The contractor will comply with all rules, regulations, and orders of the Department of the Interior which implement section 403 of Public Law 93-153.

(iii) The contractor will furnish all information and reports required by or pursuant to rules, regulations, and orders implementing section 403 of Public Law 93-153 and permit access to its books, records, and accounts by the Secretary of the Interior, the Department Compliance Officer, or other designee of the Secretary, for purposes of investigation to ascertain compliance with rules, regulations, and orders of the Department of the Interior which

implement section 403 of Public Law 93-153.

(iv) Contractor's noncompliance with the nondiscrimination clauses of this contract or with any of said rules, regulations, and orders shall constitute a breach of its contractual arrangements whereby said arrangements may be cancelled, terminated, or suspended, or may be subject to enforcement otherwise by appropriate legal proceedings.

(v) Contractor will obtain the provisions of paragraph (d)(1) (i) through (v) of this section in all subcontracts over \$10,000 and all subcontracts of indefinite quantity (unless there is reason to believe that the amount to be ordered in any year under the contract will not exceed \$10,000).

(2) Recipient will make every good faith effort to secure the compliance and will assist and cooperate actively with the Department Compliance Officer and the Secretary or his designee in obtaining and enforcing the compliance of said contracting parties with the requirements of section 403 and implementing rules, regulations, and orders, and with their respective contractual arrangements; and will take such action with respect to any contract or purchase order that the Secretary of the Interior, the Department Compliance Officer, or other designee of the Secretary may direct as a means of enforcing such provisions: *Provided, however*, That in the event the recipient becomes involved in litigation with a noncomplying party, it may request the Department of the Interior to enter into such litigation to protect the interests of the United States in the enforcement of these obligations, and

(3) Recipient will obtain and furnish to the Department Compliance Officer such information as he may require for the supervision or securing of such compliance.

(e) In the event of the recipient's noncompliance with the equal opportunity terms, compliance may be effected by the suspension or termination or refusal to grant or to continue providing the Federal authorization in accordance with procedures authorized by section 403 of Public Law 93-153, and set forth in implementing rules, regulations, or orders, or by any other means authorized by law.

#### § 27.6 Equal opportunity implementation.

Within sixty (60) days of the effective date of these regulations, or within sixty (60) days from the commencement of a Federal authorization to which this part applies, whichever occurs later, recipients of Federal authorizations to which this part applies, shall prepare and submit an affirmative action plan for each of their establishments to which this part applies, to assure that the requirements of this part will be met. In addition, recipients and each of their prime contractors and subcontractors shall require each contractor and subcontractor with a contract of \$50,000 or more and 50 or more employees to develop within sixty (60) days from the commencement of the contract and to keep on file a written affirmative action plan for each of its establishments, to which this part applies, with the exception of those establishments which the Department Compliance Officer determines are in all respects separate and distinct from performance of the activities of the prime contractor or subcontractor conducted under the Federal authorizations. Such plans shall include a set of specific and result-oriented procedures which the recipient, contractor or subcontractor commits itself to apply every good faith effort to achieve equal opportunity in all aspects of its operations. An acceptable program must include an analysis of all areas of operation of the recipient, contractor, or subcontractor in which it could be deficient in offering services, opportunities, or benefits to minority groups and women, and all areas of employment in which it could be deficient in the utilization of minority groups and women and all areas of contracting in which it could be deficient in the utilization of minority business enterprises, and, further, specific goals and specific timetables to which its efforts will be directed, to correct all deficiencies and thus to increase materially the participation of minorities and women in all aspects of its operation. The implementing affirmative action plans shall include the following:

(a) *Services, financial aids, and other benefits.* The implementing program is required to specifically address all